uals. *United States* v. *Wheeler et al.* (U. S. Sup. Ct., 1920), October term, Case No. 68.

The right of a citizen of one state to dwell peacefully in any other state and to have free ingress to and egress from such other state is unquestionably one of the privileges and immunities guaranteed by Article IV, Section 2 of the Federal Constitution. *Paul* v. *Virginia,* 8 Wall. 168. Such a right existed by virtue of comity between the states even before the adoption of the Constitution. ARTICLES OF CONFEDERATION, Article IV. And has since been repeatedly included by the courts in the category of rights protected by the privileges and immunities clause. *Paul* v. *Virginia, supra; Ward* v. *Maryland,* 12 Wall. 418; *Slaughter House Cases,* 16 Wall. 36; *Corfield* v. *Coryell,* 4 Wash. C. C. 371. The question involved in the principal case is whether the inhibition of this clause extends to individual action in derogation of the rights described, or merely applies to acts by the states themselves. In holding that the limitation is only upon state action the court relies upon the authority of *United States* v. *Harris,* 106 U. S. 629. In that case the question was fairly raised by an attack upon the constitutionality of a federal statute (R. S., Sec. 5519) punishing by fine or imprisonment any two or more persons who should "conspire or go in disguise upon the highway or on the premises of another for the purpose of depriving * * * any person or class of persons * * * of equal privileges or immunities under the laws." In holding that there was no authorization for this statute to be found in Article IV, Section 2 of the Federal Constitution, Mr. Justice Woods, speaking for the court, said: "But this section, like the Fourteenth Amendment, is directed against state action. Its object is to place the citizens of each state upon the same footing with citizens of other states, and inhibit discriminative legislation against them by other states." Citing *Paul* v. *Virginia, supra.* All that *Paul* v. *Virginia* decided with respect to Article IV, Section 2, was that corporations were not citizens within the meaning of that clause. Nor does the view announced find any support in the *Slaughter House Cases,* except by way of *dicta.* Further, there is sufficient difference in the wording of the article in question and the Fourteenth Amendment to warrant the conclusion that a greater power was delegated to the Federal Government in the former than in the latter. In view of the more general phraseology of the article involved it seems that it might reasonably be construed to be an express delegation of full power to the Federal Government to protect the privileges and immunities of the citizens of the several states as well against infringement by other citizens as by the states themselves. Such a construction would do no violence to the language used, and would, it seems, render more complete and effective the protection of the fundamental rights which are sought to be safeguarded.

CONTRACTS—DELIVERY IN INSTALLMENTS—RESCISSION JUSTIFIED BY NON-PAYMENT OF INSTALLMENT.—The plaintiff's assignor agreed to sell and the defendant agreed to buy a quantity of paper to be delivered in installments, the terms of payment being "3%—30 days." The defendant failed to pay for one of the installments as it came due, and the seller refused to make further

deliveries. *Held,* such a breach of the contract as justified the seller's refusal to make further deliveries. *Auer & Twitchell* v. *Robertson Paper Co.* (Vt., 1920), 111 Atl. 570.

It is settled by the weight of authority in this country that in contracts for the sale of commodities to be delivered in installments, the price to be paid on delivery or at fixed periods, default in payment of one of the installments, which is not waived by the seller, justifies the other party in rescinding the contract and refusing to make further deliveries. *Harris Lumber Co.* v. *Wheeler Lumber Co.,* 88 Ark. 491; *Baltimore* v. *Schaub Bros.,* 96 Md. 534; *Ross-Meehan Foundry Co.* v. *Royer Wheel Co.,* 113 Tenn. 370. Generally the same rules apply where there is a failure to deliver in accordance with the terms of the contract. *Cleveland Rolling Mills* v. *Rhodes,* 121 U. S. 255. *Morrison* v. *Leiser,* 77 Mo. App. 95. Though some cases have made a distinction between defaults by the buyer and defaults by the seller. *Norrington* v. *Wright,* 115 U. S. 188. The minority rule, which is that of the English courts, holds that such a default in payment will not justify rescission by the seller unless there was an intent on the part of the buyer to repudiate the whole contract. *West* v. *Betchell,* 125 Mich. 144 (containing an exhaustive review of the English authorities); *Beatty* v. *Howe Lumber Co.,* 77 Minn. 272; *Meyer* v. *Wheeler,* 65 Ia. 390. The leading English case is *Mersey Steel & Iron Co.* v. *Naylor,* 9 Q. B. Div. 648, emphasizing the "evincing of an intention no longer to be bound by the contract." Whatever may be the merits of these conflicting views, the result reached in the instant case seems entirely satisfactory. The contract clearly contemplated the prompt payment of each invoice as it fell due, and the buyer's arbitrary refusal to pay his back installment until the next delivery had been made would seem to be a sufficient justification for the plaintiff's withdrawal from the contract.

CONTRACTS—IDENTITY OF CONTRACTING PARTY A MATERIAL ELEMENT.—Plaintiff, desirous of attending the opening performance of a play, applied twice for a ticket. Because of some past trouble between him and the theatre management the applications were refused. Plaintiff thereupon secured a ticket through the agency of one Pollock, to whom the management was willing to sell. When plaintiff presented himself at the theatre on the evening of the performance the attendants, acting upon the direction of the defendant, the managing director of the company operating the theatre, refused him admission, offering to refund the purchase price. In action for damages for wrongfully and maliciously inducing the company to break its contract, *held* (1) plaintiff had no contract, and (2) *semble,* even if he did, defendant, a servant of the company, having acted *bona fide* within the scope of his authority, could not be held liable. *Said* v. *Butt,* [1920] 3 K. B. 497.

As to rights of ticket holders expelled from theatre seats, see *Hurst* v. *Picture Theatres, Ltd.* [1915], 1 K. B. 1. In the principal case it seems to be assumed that the *Hurst* case applies to ticket holders refused admission as well as to those ejected. See discussion of the *Hurst* case in 13 MICH. L. REV. 401. The effect as to the formation of a contract or completion of a sale of a mistake as to the identity of the other party to the transaction is